THE HON'BLE SRI JUSTICE K. C. BHANU

W.P.No.14542 of 2002

Dated: 17-07-2006

Between:

The Competent Authority and Special Deputy Collector (LA) Cast Authority of India Limited, Jetty Avenue, East Godavari District.

..Petitioner.

and

East Godavari District Consumer Disputes Redressal Forum, Kakinada, East Godavari District and another.

..Respondents.

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ORDER:

This writ petition is filed for a writ of prohibition, prohibiting the 1st respondent forum from proceeding with the adjudication of the proceedings in C.D.No.324 of 1996 filed by the 2nd respondent by declaring that the 1st respondent forum has no jurisdiction to entertain the same in view of the provisions of Petroleum & Minerals Pipe Lines (Acquisition of Right of Users in Land) Act, 1962 (hereinafter referred to as 'the ROU Act').

The learned counsel for the petitioner contended that the right of the petitioner was secured for the purpose of laying a pipeline and the remedy of the second respondent, if any, is established under the ROU Act and prays to allow the writ petition.

The learned Government Pleader for first respondent opposed the same. The second respondent remained ex parte.

For invoking the provision under the Consumer Protection Act, 1986, *prima facie,* the ingredient is that there was a deficiency in service. What is 'deficiency' is defined in Section 2 of sub clause (g) of the Consumer Protection Act, 1986 as under;

> "'deficiency' means any fault, imperfection, shortcoming or inadequacy in the quality, nature and manner of performance which is required to be maintained by or under any law for the time being in force or has been

undertaken to be performed by a person in pursuance of a contract or otherwise in relation to any service".

A bare reading of the complaint filed by the second respondent herein would go to show that the Gas Authority of India has taken possession of Ac:0-25 cents of her land for construction of gas pipe line by stating that they would pay compensation and at that time, there was a caral crop in the said land and 4 trees were cut and removed and lease has to be paid to the land. But the company has not paid any compensation to her. On 13-06-1996 the company paid compensation to some persons and her name was removed from the list and compensation was paid to one Kompella Venkata Ramesh, s/o. Gopala Krishna. It is further stated that she sold her land on 01-06-1995 to Kompella Gopala Krishna and by that time, she has no relationship with ONGC and there was no proper reply for the notice issued by her to the company. Hence, for payment of compensation, the second respondent filed C.D.No.324 of 1996 on the file of the District Consumer Forum.

There is no allegation whatsoever with regard to deficiency of service caused by the petitioner herein to the second respondent. On the other hand, the allegation in the complaint would go to show that the second respondent sold the land in question on 01-06-1995 to Kompella Gopala Krishna. Even according to her, the possession of land was taken by the company on 10-03-1995. Even if the allegations in the complaint are taken as true at this stage, there is no deficiency of service in any manner. Hence, continuation of proceedings is nothing but an abuse of process of law.

Accordingly, the Writ Petition is allowed as prayed for. No

costs.

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K.C.BHANU,J

Dated: 17-07-2006

sj